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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,192	04/16/2004	Edwin C. Iliff	ILIFF.2DV3DVC	2329
20995	7590	03/08/2006	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			DAVIS, GEORGE B	
			ART UNIT	PAPER NUMBER
			2129	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/827,192	ILIFF, EDWIN C.
Examiner	Art Unit	
George Davis	2129	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 December 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-33 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20051219</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14-33 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted step is of a step that make it clear what is the phrase “waiting a predetermined time interval” about? There is a gap between the phrase “waiting a predetermined time interval” and other steps in the independent claims 14, 18, 23, 26 and 29.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altman et al, U.S. Pat. No. 5572421 in view of Brill, U.S. Pat. No. 5435324.

As per claims 1, 10 and 12, Altman discloses an automated diagnostic consulting using an automated medical advice or diagnostic system (portable medical questionnaire presentation device 20, figure 1) including a computer device (microcomputer 52, figure 4) and input (patient

keypad 26) and output (text display 22) devices. Further Altman et al discloses prestoring questions and corresponding expected answers in memory (ROM 138, column 9, lines 31-40), automatically asking a patient one of the prestored questions (figure 3D), automatically comparing the answer to a corresponding prestored expected answer (column 20, lines 10-13 and automatically ascribing the score to a result of a comparison ("calculating a weighted numerical value based on the answer", at column 16, lines 16-26). Altman does not teach automatically comparing the score to a predetermined threshold value so as to determine a mental status of a patient. However, Brill teaches at column 9, lines 62-65, and column 10, lines 23-29, that a "large variety of specialized questionnaires may be provided to target specific health-related targeting particular health risks and medical conditions" and that the system is "easily adaptable" to present various questionnaires by "changing the text of the questions to be presented to a patient and by describing appropriate steps for analyzing the patient's answers". For instance, Brill teaches an apparatus for "measuring and quantifying a patient's psychological condition" and for "administering psychotherapy based on such measurements" (see column 1, lines 11-15, column 2, lines 31-40, column 4, lines 52 and 53, Appendix A). Brill also teaches comparing the score of a predetermined threshold value (benchmark) to determine a patient's mental state (see column 7, lines 28-37, column 8, lines 14-17). Thus, it would have obvious to one of ordinary skill of the art at the time the invention was made to include in Altman's device a questionnaire to determine the mental status of a patient such as Brill's because it provides an objective and reliable method for measuring a person's mental state.

As per claims 2-9, 11 and 13, Altman does not teach in details recite patient information history including mental status, threshold value and assistance if threshold value not achieved

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and a third part assistance if needed. However Brill teaches patient information history including mental status, threshold value and assistance if threshold value not achieved and a third part assistance if needed ("benchmark" and column 7, lines 28-37, column 8, lines 14-17). It would have obvious to one of ordinary skill of the art at the time the invention was made to include in Altman's device a questionnaire to determine the mental status of patient as in Brill because it provides an objective and reliable method for measuring a person's mental state.

Conclusion

3. 35 U.S.C. 103(a) rejection is modified and a new 35 U.S.C. 112 2nd rejection is introduced. Therefore, this office action is made non-final.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Davis whose telephone number is (571) 272-3683. The examiner can normally be reached on Monday through Friday from 10:00 am to 6:30 pm.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Vincent, can be reached on (571) 272-3080. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3800.

March 5, 2006



GEORGE B. DAVIS

PRIMARY PATENT EXAMINER